

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re:

Petition for Rulemaking To Amend the)	
Commission's Rules To Extend its Network)	
and Non-Network Territorial Exclusivity,)	RM-10335
Syndicated Exclusivity, and Network)	
Non-Duplication Protection Rules to)	
Low Power, Class A, and Noncommercial)	
Broadcast Stations)	

To: The Commission

COMMENTS IN SUPPORT OF PETITION FOR RULE MAKING

1. This Statement is filed by Equity Broadcasting Corporation in support of the above-reference petition for rule making, filed by Venture Technologies Group, LLC ("VTG") on October 23, 2001. Equity Broadcasting Corporation ("Equity") is a broadcasting company that, directly or through subsidiaries, holds twenty three full power construction permits or license as well as low power television and Class A stations throughout the United States.

2. VTG is attempting to expand the Commission's rules regarding non-duplication and exclusivity.¹ These rules currently protect commercial full power television stations against cable systems televising duplicate programming from distant stations. Full power stations therefore reap the benefits of exclusive programming rights they bought when purchasing the programming for the stations. Low power stations often pay more than their full power counterparts when purchasing the same programming because the syndication companies would rather sell the programming to full power stations which provide more coverage. Therefore the low power stations pay more for the programming and exclusivity rights for the station's coverage area, yet cannot enforce their rights

¹ 47 C.F.R. § 76.92-76.153.

because the cable systems, under the current rules, may allow distant signals to show duplicate programming. Under the current rules, the low power broadcaster has no way to enforce the rights it has negotiated and paid for with the program provider.

3. Without protection under the Commission's rules, the cable systems may undermine the contracts negotiated between the low power television broadcaster and the program provider. This hurts the low power broadcaster financially in two ways. First, the low power broadcaster paid a premium to get exclusivity in the contract. Second, if the cable system carries the distant signal and does not black out the duplicative programming, the low power station has no ammunition to ever get on the cable systems because there are no demands by the subscribers to "see their favorite show that only the local low power broadcaster can provide."

4. Class A television stations in particular should be awarded the benefits given under the non-duplication and exclusivity rules for three reasons. The first reason is respecting private contractual rights, as stated in Paragraphs 2 and 3 above. Second, Class A television stations must comply with virtually all of the rules under 47 C.F.R. Part 73 Subpart H, which used to apply only to full power television stations and radio. Since Class A stations must comply with all of the requirements under Subpart H, such as keeping a public file, main studio, two employees, etc., they should also reap the benefits as set forth in other sections of the C.F.R. that apply to full power television stations, one example being the non-duplicative and exclusivity rules. Third, Class A stations are required to comply with numerous rules requiring more local activity than is required for any other class of station. The Commission's rules require all broadcast stations to be "local" to some extent, but not as much as Class A stations. Most importantly, only Class A stations are required to provide three hours of "local programming" per week. Other examples of local requirements include: Class A stations having a main studio within the station's community of license (or within the Grade B service contour of the station) and the requirement to provide a list every three months of the station's most significant treatment of community issues for the preceding three month period.

The Commission requires Class A stations to be "local" but the "local" stations are not protect against the distant signal stations. The cable systems are undermining the objectives of the Commission by promoting and televising distant signals over "local" signals even when the station itself has negotiated a contract with the program provider to be exclusive in its particular market or community.

5. Accordingly, for the reasons set for above, Equity urges the Commission to grant VTG's petition promptly.

Respectfully submitted,

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Lori M. Withrow

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December 18, 2001

CERTIFICATE OF SERVICE

I, Lori Withrow, do hereby certify that I have, this 18th day of December, caused to be sent by first class United States mail, postage prepaid, copies of the foregoing "Comments in Support of Petition for Rulemaking" to the following:

Paul Koplin, President
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Lori Withrow